

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SEAN KENDRICK,

Petitioner,

v.

Case No. 01-C-1261

**THOMAS G. BORGEN,
Warden of Fox Lake Correctional Institution,**

Respondent.

DECISION AND ORDER

This matter is before the Court on petitioner Sean Kendrick's ("Kendrick") amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Kendrick challenges his December 10, 1998, conviction by the Circuit Court of Milwaukee County, Wisconsin for possession with intent to deliver more than 100 grams of cocaine in violation of Wis. Stat. § 961.41(1m)(cm)(5). Following the entry of a plea of nolo contendere, Kendrick was sentenced to a 20-year-term of incarceration. No direct appeal was filed. Rather, a no-merit report was filed.

To allow Kendrick an opportunity to exhaust his state remedies on all his claims, the proceedings were stayed pursuant to the Court's January 4, 2002, decision and order. Kendrick has not explicitly stated that he has exhausted his state remedies.

Moreover, Kendrick's amended petition states that a motion for reconsideration of an evidentiary/*Machner* hearing is pending in the Milwaukee Circuit Court. Further, the Wisconsin Supreme Court and Court of Appeals Case Access database¹ reveals that Kendrick currently has an appeal from a post-conviction motion pending in the Wisconsin court of appeals. *See State v. Kendrick*, Case No. 2006AP001119 (Wis. Ct. App.). Thus, it does not appear that Kendrick has exhausted his state remedies. As such, the case will remain stayed until Kendrick informs the Court that he has exhausted his state remedies.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

This action will **REMAIN STAYED** until Kendrick informs the Court that he has exhausted his state remedies.

Dated at Milwaukee, Wisconsin this 13th day of June, 2006.

BY THE COURT

s/ Rudolph T. Randa

Hon. Rudolph T. Randa
Chief Judge

¹See <http://wscca.wicourts.gov> (last visited June 12, 2006.)